

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

THOMAS CALHOUN, :  
Petitioner(s), :  
Case Number: 1:06cv782  
vs. :  
District Judge Susan J. Dlott  
WANZA JACKSON, WARDEN WARREN :  
CORRECTIONAL INSTITUTION, :  
Respondent(s). :

## ORDER

The Court has reviewed the Report and Recommendations of United States Magistrate Judge Timothy S. Black filed on August 29, 2007(Doc. 12), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired September 18, 2007, hereby ADOPTS said Report and Recommendations.

Accordingly, Petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Doc. 1) is **DENIED** with prejudice.

Petitioner's motion to hold his habeas petition in abeyance (Doc. 3) is **DENIED**.

A certificate of appealability will not issue with respect to Ground One and Ground Three (with respect to petitioner's felonious assault conviction) of the petition because petitioner has failed to make a substantial showing of the denial of a constitutional right based on this claim. *See* 28 U.S.C. § 2253 (c); Fed.R.App.P. 22(b).

A certificate of appealability will not issue with respect to Ground Two and Ground Three (with respect to petitioner's aggravated burglary and robbery convictions) of the petition

which this Court has concluded is waived and thus barred from review on procedural grounds because under the applicable two-part standard enunciated in *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000), “jurists of reason would not be find it debatable whether this Court is correct in its procedural ruling” as required under the first prong of the *Slack* standard.

The Court certifies pursuant to 28 U.S.C. § 1915 (a) (3) that an appeal of any Order adopting this Report and Recommendation will not be taken in “good faith” and, therefore, **DENIES** petitioner leave to proceed on appeal *in forma pauperis* upon a showing of financial necessity. *See* Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6<sup>th</sup> Cir. 1997).

**IT IS SO ORDERED.**

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**s/Susan J. Dlott**  
**Susan J. Dlott**  
**United States District Judge**